

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

In Re:

Caroline Gray Trabue
Map 116-13-0-C, Parcel 32CO
Residential Property
Tax year 2005

)
)
)
)

Davidson County

INITIAL DECISION AND ORDER

Statement of the Case

The Metropolitan Board of Equalization (“county board”) has valued the subject property as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$30,000	\$145,600	\$175,600	\$43,900

On September 22, 2005, the State Board of Equalization (“State Board”) received an appeal by the property owner.

The undersigned administrative judge conducted a hearing of this matter on May 17, 2006 in Nashville. The appellant, Caroline Gray Trabue, represented herself at the hearing. Staff appraiser Jason Poling appeared on behalf of the Davidson County Assessor of Property (“Assessor”).

Findings of Fact and Conclusions of Law

Among the factors that must be considered by an assessor in the valuation of property for tax purposes are “legal restrictions on use.” Tenn. Code Ann. section 67-5-602(b)(5). This appeal raises an interesting issue concerning the impact of more stringent building/fire safety codes on the market values of affected structures.

The property in question is an apartment on the third floor (#32) of the Belle Meade Tower condominium, located at 105 Leake Avenue in Nashville. As originally constructed in 1963, this unit contained approximately 1,518 square feet of living area. A 98-square-foot balcony was enclosed later.

From tax years 2001 through 2004, the subject property was listed on the assessment roll at \$159,900. During that period, the Metropolitan Government of Nashville and Davidson County (“Metro”) enacted an ordinance requiring that all high-rise buildings in the county – including Belle Meade Tower – be fully sprinklered. This ordinance, which took effect on January 1, 2004, apparently authorized the Metro Fire Marshal to grant a temporary exception for the predominantly elderly occupants of nonconforming Belle Meade Tower apartments (and their surviving spouses). But when such apartments are vacated by such persons for any reason, they cannot lawfully be reoccupied until an approved sprinkler system has been installed.

In 2005, a year of reappraisal in Davidson County, the Assessor determined the value of the subject property to be \$175,600. Upon its review of the owner's complaint, the county board affirmed that value.

In this appeal to the State Board, Ms. Trabue contended that the adoption of Metro's high-rise sprinkler ordinance effectively devalued her condominium unit by upwards of \$20,000 – the cost of compliance estimated by local contractor CB Construction. Therefore, she theorized, the current appraisal of this property should be reduced by an equivalent amount.

In support of the disputed value, the Assessor's representative introduced an exhibit describing two other Belle Meade Tower units which sold in 2004 – *after* the effective date of the ordinance. On February 9 of that year, a unit of identical size (#92) brought \$175,000. However, according to the testimony of the property manager who accompanied Ms. Trabue at the hearing, the seller of that comparable had expended some \$20,000 on installation of the required sprinkler system *before* the closing of the transaction. The 1,293-square-foot unit #27 sold for \$144,000 on July 7, 2004.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values....”

Since the taxpayer seeks to change the present valuation of the subject property, she has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

The administrative judge cannot readily accept the premise on which the taxpayer's propounded value is based. In effect, the local governing body (Metro) has mandated the completion of a home improvement (i.e., an approved sprinkler system) as a condition of sale of the subject property. Yet, presumably, that amenity would enhance the market value of the property to some extent with the prospect of lower insurance rates and better protection. Moreover, the cost of curing a deficiency (in this case, a fire safety deficiency) cannot simply be deducted from the *current appraisal* of the subject property; for that methodology would beg the question of whether such appraisal already takes all accrued depreciation into account. See, e.g., Thos. J. & Jennifer A. Robinson (Davidson County, Tax Years 2004-2005, Final Decision and Order & Notice of Default, April 25, 2006).

Particularly considering the age of this condominium conversion project, however, the cost of installing the required sprinkler system would likely exceed the resulting increase in value. Indeed, the adjusted sale price of the Assessor's unit #27 comparable -- \$81.09 per square foot (excluding the land) -- indicates a value of only \$161,000 for the subject property in its present state of noncompliance with Metro's fire sprinkler ordinance. Likewise, if the \$20,000 seller's concession (i.e., the expenditure on compliance) is deducted from the reported consideration for unit #92, the time-adjusted sale price for that comparable becomes a nearly identical \$81.57 per square foot.

For these reasons, the administrative judge respectfully recommends that the subject property be valued at \$161,000.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$30,000	\$131,000	\$161,000	\$40,250

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 9th day of June, 2006.

PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Caroline Gray Trabue
Jo Ann North, Davidson County Assessor of Property